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NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Haisey Street
PO Box 45029
Newark, New Jersey 07101

By: Megan K. Matthews

Deputy Attorney General Tel: (973)648-7454

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY,
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION	4		
OR REVOCATION OF THE LICENSE OF	-		
		CONSENT ORDER	
Gustav Calderon, M.D.			
License No.:MA40601	1	OF VOLUNTARY E	
TO PRACTICE MEDICINE AND SURGERY			
IN THE STATE OF NEW JERSEY			

This matter was opened to the New Jersey State Board of Medical Examiners upon the filing of an Order to Show Cause, Notice of Hearing and Verified Complaint on November 20.2003 by the Attorney General, Peter C. Harvey, by Adriana Baudry, Deputy Attorney General.

The Verified Complaint alleges that Dr Calderon has demonstrated a present incapability to discharge the functions of a licensee in a manner consistent with the public's health, safety and welfare. Dr Calderon denies this allegation. All allegations in this Complaint are resolved by reason of this Order

The parries, having agreed to the resolution of this matter without further formal proceedings. and Respondent, represented by Theodosia Tamborlane, Esq., having expressed his desire to retire from the practice of medicine and surgery in New Jersey and having agreed and given his voluntary



consent to the within Order, and the Board finding the within disposfdonadequately protective of the public health, safety and welfare, and other good cause having been shown,

III IS, therefore on this day of \_\_\_\_\_\_\_\_, 2004

#### **ORDERED THAT**

- Gustav Calderon, M.D. is hereby granted leave and shall surrender his license to practice Medicine and Surgery in the State of New Jersey without prejudice to re-application, effective March 1, 2004. Said surrender will constitute the voluntary retirement of Dr. Calderon's license.
- Dr. Calderon shall immediately cease and desist from the practice of medicine and in the Stare of New Jersey
- 3. Dr. Calderon shall immediately rerum his original New Jersey license and current bichnial registration to the New Jersey State Board of Medical Examiners. 140 E. Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183.
- Dr. Calderone shall immediately notify the New Jersey Office of Drug Control and the DEA of his retirement in New Jersey.
- 5 Upon receipt of any application by Respondent for reinstatement, the Board shall determine what steps must be taken to satisfy the Board as to the Respondent's statutory fitness to practice Such steps may include, but not be limited to: Respondent's appearance before the Board or a committee thereof to discuss his readiness to reenter the practice of medicine and discuss the facts underlying rhe charges set forth in rhe general allegations and Count One of the Verified Complaint, provide the Board with evidence that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare; provide the Board with a report from the Physician's Health Program detailing the nature end extent of his involvement with

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that entity; and any and all evaluations and or course-work that the Board may determine are necessary to ensure that he is capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

- G. Respondent shall comply with the "Directives Applicable to any Medical Board Licensee who is Suspended. Revoked or Whose Surrender of Licensure has been Accepted." attached hereto and made a part hereof.
- 7. Nothing herein shall infringe upon the ability of the Board to exercise its lawful discretion to determine whether it is appropriate to reinstate the licease of Respondent in the event of re-application.

NEW JERSBY STATE BOARD OF MEDICAL EXAMINERS

Rv

David Wallace, M.D. Board President

I have read the within Order and agree to its terms.

Gustav Calderon, M.D.

I hereby consent to the form and entry of the within Order.

Theodosia Tamborlane, Esq/

PAX NO. 30E2962700

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#### **ADDENDUM**

Any licensee who is the subject of an order of the Board suspending, revoking of otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number	*	_	
List the Name and Address or affiliated:	f any and all Health Care	Facilities with which yo	ou <b>are</b>
List the Names and Address of you are affiliated:	any and all Health Mainten	ance Organizations with	which
Provide the names and address professional practice: (You may			

Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

# DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE

**HASBEENACCEPTED** 

## APPROVED BY THE BOARD ON MAY 10,2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information providedwill be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et sec. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

# 1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

#### 2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose hislher licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of hislher provider number by any health care practice or any other licensee or heatth care provider. (Insituations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove hidher name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearingthe licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (the situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

# 3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporationorganized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service CorporationAct. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest himlherself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest himlherself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### 4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message wilt be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or hislher attorney) assuming custody of the records. The sam'e information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the **end** of the three month period, the licensee shall file with the **Board** the name and telephone number of the contact person who wilt have access to medical records of former patients. Any **change** in that individual **or his/her** telephone **number** shall be promptly **reported** to the Board. When a patient **or his/her** representative requests a copy of hislher medical record or asks that record be forwarded to another **health** care provider, the licensee shall promptly provide the record without **charge** to the patient.

# 5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

- (a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and Inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.
- (b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.



Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise **restricts**) a license.
- Which censures, reprimands or places on probation,
- Under which a license is surrendered.

**Pursuant to 45** CFR Section 61.7, the Board is **obligated** to report **to the Healthcare** Integrity and Protection (HiP) Data **Bank**, any formal or **official actions**, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation **or** any other loss of license or the right **to** apply for, or renew, a license of the provider, **supplier**. or practitioner, whether by operation of law, voluntary surrender, **non-renewability,or** otherwise, **or** any other negative action **or** finding by **such** Federal **or** State agency that is publicly available information.

Pursuant to N.J.S.A.45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenanceorganization with which a licensee is affiliated and every other board licensee in this state with whom he or **she** is directly **associated** in private medical practice.

**In accordance** with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary **orders are** provided to that organization **on** a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and isforwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that **Board** meeting, which are also made available to those requesting a copy.

Within the month following entry of an **order**, **a** summary of the order will appear **in** a Monthly Disciplinary Action Listing which **is** made available to **those** members of **the** public **requestinga copy**.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Officeofthe Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in **any way** to limit **the Board**, **the Division** or the Attorney General from disclosing any public **document**.